

73-3-14 Judicial review of state engineer order.

- (1)
 - (a) A person aggrieved by an order of the state engineer may obtain judicial review in accordance with Title 63G, Chapter 4, Administrative Procedures Act, and this section.
 - (b) Venue for judicial review of an informal adjudicative proceeding is in the county in which the water source or a portion of the water source is located.
- (2) The state engineer shall be joined as a respondent in a petition to review the state engineer's decision, but no judgment for costs or expenses of the litigation may be rendered against the state engineer.
- (3) A person who files a petition for judicial review as authorized in this section shall:
 - (a) name the state engineer as a respondent; and
 - (b) provide written notice in accordance with Subsection (5) to each person who filed a protest in accordance with Section 73-3-7 of:
 - (i) the filing of the petition for judicial review; and
 - (ii) the opportunity to intervene in accordance with Utah Rules of Civil Procedure, Rule 24.
- (4) In addition to the requirements of Subsection (3), a protestant in the adjudicative proceeding who files a petition for judicial review shall also name as a respondent the person:
 - (a) who requested the adjudicative proceeding; or
 - (b) against whom the state engineer brought the adjudicative proceeding.
- (5) The written notice required by this section shall:
 - (a) be mailed:
 - (i) within the time provided for by Utah Rules of Civil Procedure, Rule 4(b); and
 - (ii) to the address on record with the state engineer's office at the time the order is issued; and
 - (b) include:
 - (i) a copy of the petition; and
 - (ii) the address of the court in which the petition is pending.
- (6) If a person who files a petition for judicial review fails to provide notice as required by this section, the court shall dismiss the petition without prejudice upon:
 - (a) the motion of a party;
 - (b) the special appearance of a person who:
 - (i) participated in the adjudicative proceeding; and
 - (ii) is not a party; or
 - (c) the court's own motion.
- (7) A person who files a petition for judicial review is not required to:
 - (a) notwithstanding Subsection 63G-4-401(3)(b), name a respondent that is not required by this section; and
 - (b) notwithstanding Subsection 63G-4-402(2)(a)(iv), identify all parties to the adjudicative proceeding.

Amended by Chapter 165, 2008 General Session

Amended by Chapter 382, 2008 General Session